

# DOCKET

07-AFC-6

DATE SEP 23 2011

RECD. SEP 23 2011

## STATE OF CALIFORNIA

### Energy Resources Conservation and Development Commission

In the Matter of: )  
Application for Certification for the )  
Carlsbad Energy Center Project )  
(CECP) )  
\_\_\_\_\_ )

Docket No 07-AFC-6

City of Carlsbad and Carlsbad Redevelopment Agency  
Comments Following September 13, 2011 Carlsbad Committee Conference

September 23, 2011

Ronald R. Ball  
City Attorney for City of Carlsbad and  
General Counsel for Carlsbad Redevelopment Agency  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008  
(760) 434-2891

Allan J Thompson  
Special Counsel for City of Carlsbad and  
Carlsbad Redevelopment Agency  
21 "C" Orinda Way, #314  
Orinda, CA 94563  
(925) 258-9962

STATE OF CALIFORNIA  
CALIFORNIA ENERGY COMMISSION

In the Matter of	)	
Application for Certification for the	)	Docket No. 07-AFC-6
Carlsbad Energy Center Project	)	
(CECP)	)	
_____	)	

City of Carlsbad and Carlsbad Redevelopment Agency  
Comments Following September 13, 2011 Carlsbad Committee Conference

1. Introduction

On June 30, 2011, after considering the Presiding Member's Proposed Decision (PMPD), Errata, and comments from all the parties, the full Commission referred the Carlsbad Energy Center Project (CECP) proceeding back to the CECP Assigned Committee. The Commission directed the Committee to consider issues associated with the three projects in SDG&E's proposed power purchase agreements, issues associated with Conditions LAND-2 and LAND-3, and issues associated with grid reliability. The Commission's order was clear that the Committee would hold a hearing and take evidence at a minimum on these issues. The Commission also allowed the Committee to: "...in its discretion, consider other issues, with or without additional hearings." Following consideration of the evidence, the Commission directed the Committee to revise the PMPD as needed.

At the September 13, 2011 Committee Conference, as noted in Hearing Officer Kramer's e-mail dated September 14, 2011, the Applicant requested that the Committee first consider removing Conditions LAND-2 and LAND-3 from the PMPD. Based on this decision, the Applicant would then decide whether to continue with permitting of the project. The Applicant's justification of this request was to the effect that demolition and removal of the Encina Power Station is too expensive and they intend to operate Units 4 and 5 indefinitely.

## 2. Piecemealing of LAND-2 and LAND-3

The City of Carlsbad and Carlsbad Redevelopment Agency take strong exception to the possibility of a decision to essentially piecemeal this proceeding. The Commission has a long and outstanding tradition of collecting evidence and considering on-balance all of the issues on a case. At that point, the assigned Committee issues a single Presiding Member's Proposed Decision on the entirety of the project according to Public Resources Code Sections 1749, 1751, 1752, 1752.3, and 1759.5. It would be inappropriate for the Committee to remove two conditions in the PMPD without considering all of the open issues on the case and reissuing a complete Revised PMPD.

It would also be inappropriate for the Committee to remove Conditions of Certification LAND-2 and LAND-3 without holding an evidentiary hearing on the issue and allowing the parties sufficient time to prepare testimony for that hearing. As the Errata correctly points out, LAND-2 and LAND-3 are a critical component to the question of whether the project conforms with applicable laws, ordinances, rules and regulations (LORS). As has been discussed extensively in the record, one requirement of the South Carlsbad Coastal Redevelopment Plan is that a finding of extraordinary public purpose be made for the approval of certain industrial and utility type of land uses within the redevelopment area. LAND-2 and LAND-3 were developed and proposed by the Applicant to help satisfy that requirement. The City firmly agrees with the PMPD Errata that LAND-2 and LAND-3, or similar conditions, are a necessary requirement to help alleviate the existing blighted condition of the site especially considering the additional contribution to blight, with the development of the CECF. Consequently, the Carlsbad Redevelopment Agency (Agency) believes that LAND-2 and LAND-3 represent the minimum conditions which are necessary for the CEC to justify an extraordinary public benefit finding required for CECF approval. The Agency also firmly believes that the Commission can only ignore this requirement by making an override finding under Public Resources Code 1752 (k). Making this finding requires the Committee and Commission to consider the alternatives including the three PPA projects and the public convenience and necessity, including reliability.

## 3. Testimony on LAND-2 and LAND-3.

The discussion at the September 13, 2011 Committee Conference and the e-mail from Hearing Officer Kramer on September 14, 2011 were unclear regarding what specifically the

Committee requires from the parties in terms of “comment regarding the appropriate response to the Applicant’s request.” Because of our concern that the Committee may “issue an order or take other action” without an evidentiary hearing on the facts associated with LAND-2 and LAND-3, the City and Redevelopment Agency have attached the Redevelopment Agency staff’s report dated September 19, 2011 on the status of the CECP project and their conclusions regarding the benefits of the proposed CECP and necessity of Conditions of Certification LAND-2 and LAND-3 (Attachment 1). Also attached is the Carlsbad Housing and Redevelopment Commission’s Resolution 513, adopted on September 20, 2011, which concludes that without the inclusion of Conditions of Certification LAND-2 and LAND-3, the CECP does not serve any extraordinary public benefit necessary for project approval (Attachment 2). The City and Redevelopment Agency will be prepared to present additional written and oral testimony at the upcoming evidentiary hearing.

#### 4. Schedule.

During the September 13, 2011 Committee Conference and in Hearing Office Kramer’s September 14, 2011 e-mail, the Committee requested comments on the schedule. First, we believe it is appropriate and necessary for the Committee to hold hearings at a minimum on the three issues identified in the Commission’s order: project alternatives, Conditions of Certification LAND-2 and LAND-3, and system reliability. Second, we believe all issues should be heard at the same time and that the Committee should issue one Revised PMPD presenting its recommendations on all issues rather than issuing piecemeal decisions. Our recommended schedule is as follows (all dates are approximate):

Comments due to Committee - 9/23/11

Committee order - 9/30/11

Applicant testimony - 10/14/11 (2 weeks after the Committee Order)

Intervenor testimony – 11/11/11 (30 days after Applicant testimony)

Prehearing Conference - 11/18/11 (1 week after testimony)

Hearing - 12/2/11 (2 weeks after prehearing conference)

RPMPD - 1/6/12 (30 days after hearings)

RPMPD Comments due - 2/5/12 (30 days after RPMPD)

Final Decision - 2/22/12 (2 weeks after comments)

5. Other Issues.

In its order, the Commission also allowed the Committee to consider other issues. The City recommends that the Committee allow the parties to address the issue of the role of the "local fire official" and what it means for the Energy Commission to assume this function. This issue stems from a statement in the June 15, 2011 Errata to the PMPD which, among other things, asserts for the first time that the CEC would act as the local fire official. This is clearly a substantial departure from past CEC practices and the documents related to this proceeding leading up to the Errata. Except through oral comment on June 15, 2011, the City and other parties have not had an opportunity to comment on this concept or explore the practical implications of such an assertion. The City and Redevelopment Agency suggest that any such testimony be included in the testimony filings identified in the above schedule.

Thank you for considering these issues.

Respectfully submitted:

A handwritten signature in cursive script, appearing to read "Ron Ball", written over a horizontal line.

Ronald R. Ball  
City Attorney for City of Carlsbad and  
General Counsel for Carlsbad Redevelopment Agency

Update Report on Proceedings before the CEC on September 19, 2011  
Carlsbad Energy Center Project

Introduction & Background

Staff of the Housing and Redevelopment Commission present this report for its consideration at its special meeting of Tuesday, September 20, 2011. F This matter concerns conformance of the NRG proposed Carlsbad Energy Center Project (CECP) with the requirements of this Commission, notably the requirement that any proposed industrial facility to be constructed in the South Carlsbad Coastal Redevelopment Area demonstrate "extraordinary public purpose" to the Commission.

NRG filed its Application For Certification with the California Energy Commission (CEC) in September, 2007. The City of Carlsbad and Housing and Redevelopment staff reviewed the application and filed its concerns with the CEC in October 2007. To date, there has been no final decision by the Energy Commission, and a number of issues remain to be determined. On June 30, 2011, the Commission remanded the draft decision back to the Assigned Committee to take evidence on a number of matters, including impacts associated with implementing Conditions of Certification Land-2 and Land-3. Since that time, the assigned committee has determined that the parties should consider the effects of deleting these two conditions. Although there is a great deal of confusion, staff here requests this Agency to determine if the CECP, without the two conditions of certification, provides extraordinary public purpose.

The Housing and Community Development Director has submitted prepared testimony and testified to the effect that the CECP did not provide sufficient benefits. Recognizing the merits of this requirement, the CEC presiding members expressed the desire for additional benefits from CECP in the proposed decision.

NRG then proposed two Conditions of Certification (Land-2 and Land-3) which would guarantee that the entire Encina Power Station (units 1-5) would be retired and demolished when the proposed CECP is constructed and begins operations with date certainty on several of the required actions. Unfortunately, on September 13, 2011 NRG asked that the CEC Committee if it would withdraw its requirement of these conditions and, if so, it may withdraw its application if the Committee believes they should remain. Staff believes the CEC record will benefit from a determination on whether the CECP meets the standard of extraordinary public purpose.

This staff report will give a brief review of the CEC proceedings and the history of the two Land Use conditions. It also presents and discusses the required benefits, and the benefits proposed by these conditions. Finally, it compares the proposed benefits of the second power plant with the benefits obtained from Poseidon, the only other industrial development to meet the extraordinary public benefit requirement in this redevelopment area.

### California Energy Commission and the CECP Proposal

Housing and Redevelopment Commission staff have been consistent over the course of this proceeding in defending the criteria for industrial development in the area covered by the Redevelopment Plan. Following is a brief history of this involvement:

- Approximately two months after the filing of the CEC application by CECP, Carlsbad filed a 9-page "Issues of Concern" which stated the purpose of redevelopment is to "free up" property along the Pacific Ocean and create visitor serving areas. Staff pointed out that the CECP, as planned, gave no Encina units 1-5 retirement guarantee. Also, the comments pointed out that the retirement of Encina 1-3 would leave the plants in place.

- In May of 2008 Carlsbad filed a document entitled "Land Use Information", which stated that the primary purpose of the Redevelopment Plan is to convert industrial land west of the railroad tracks to a more appropriate land use. The comments concluded that the CECP did not offer "extraordinary public purpose". The comments suggested benefits for the consideration of the CEC and CECP. These included electricity for use in Carlsbad at preferential rates and assurances of a decrease in "black out" possibilities. Also, the CECP represents an incompatible land use and no certain date for Encina 1-5 decommissioning was given.
- CEC staff issued its testimony (entitled Preliminary Staff Assessment) on December 11, 2008. Staff found the CECP to be consistent with redevelopment law as zoning was consistent and Encina units 1-3 would be decommissioned. Carlsbad staff responded that the CECP would not be in conformance as it represents an enlargement, not a decrease in industrial facilities in the redevelopment area. The elimination of blight does not occur with an addition of a power plant in this area. Ms Fountain offered testimony that Housing and Redevelopment Commission Resolution 401 determined that the CECP would not be in conformance with the redevelopment plan, primarily due to the refusal of CECP to update SP 144. Ms Fountain again testified that a binding commitment to decommission and remediate the Encina 1-5 units was very important in demonstrating extraordinary public benefit.
- Fifteen months elapsed between the testimony and the publication of the CEC Committee's Draft Decision (entitled Presiding Member's Proposed Decision). This document revived the discussion on the extraordinary public benefit standard and clearly states its uncertainty that the CECP, as then proposed, meets that standard.



### Conditions of Certification Land-2 and Land-3

These two Conditions of Certification were offered by NRG on June 3, 2011 and incorporated in the Revised PMPD. On September 13, 2011, NRG argued against the feasibility of these conditions, and stated it may not accept a final decision that contains the conditions, as they currently appear in the CEC's Revised PMPD. However, the issue before the Commission is whether or not the proposed second power plant without conditions land-2 and land-3 would meet the test of an extraordinary public purpose. It is of note that the Energy Commission, when it remanded this project back to the CEC committee, thought the conditions were part of the project. These conditions mandated steps leading to the demolition and remediation of the Encina 1-5 power plant and were included to satisfy the requirements of the South Carlsbad Coastal Redevelopment Plan.

### CECP Benefits

The CECP has claimed various benefits in this proceeding. Below are listed the claimed benefits with comments provided by staff.

#### (1) Consistency with the South Carlsbad Coastal Redevelopment Area Plan.

CECP claims that the CECP is consistent with the redevelopment plan and is an authorized use under the Plan. The CECP will be a smaller, more efficient power plant which will be located on the eastern side of the railroad tracks.

Staff agrees that the CECP will be smaller than the existing Encina units 1-5 and will be located east of the railroad tracks. However, we believe that the CECP is not consistent with the Plan because the Plan contemplated redevelopment of lands west of the railroad tracks for development. The main thrust of the redevelopment plan is for land uses west of the railroad tracks to be redeveloped to higher and better uses. The CECP Plan is to have two power plants in the redevelopment

area instead of one. This would intensify the industrial uses in the redevelopment area. The negative impacts could be ameliorated by a definitive plan to retire and demolish Encina 1-5, but NRG may not commit to such a plan. Finally, the CECP must still show that it provides "extraordinary public purpose".

- (2) Retirement of Encina Units 1-3. CECP will retire three of the five Encina units upon the commencement of operation of the CECP. The major benefit of this retirement would be a reduction in aquatic biota losses due to entrainment and entrapment due to the existing once-through cooling system.

Staff recognizes that there will be some benefit from the retirement of these three units, but do not believe this benefit is significant. In staff's opinion, these three units will likely be retired at the end of 2017 due to the restrictions placed on certain coastal power plants by the State Water Resources Control Board. CECP has recognized that construction of the CECP cannot commence for at least a year due to the lack of an EPA approval. If construction takes 25 months, the CECP could be operational in late 2014, leaving a little over two years of aquatic biota losses. The major difficulty with this CECP claim is that the CECP would increase, not decrease, blight in the Redevelopment Area. Encina units 1-3 are housed in a massive building with a large 400 foot stack. Retirement of units 1-3 would not result in the demolition of this structure.

- (3) The CECP could lead to the demolition of the EPS. The entire Encina power plant could be demolished if sufficient electric capacity is available to SDG&E so that the Encina plant would not be needed. With the retirement of Encina 1-3 and the construction of the CECP, over 250 MW of additional capacity would be available to SDG&E.

Staff does not believe that SDG&E needs this electric capacity in order to retire the Encina power station. SDG&E filed a request with the California Public Utilities Commission on May 19, 2011 requesting that the agency approve three power purchase agreements representing about 400 MW of new capacity. SDG&E offered testimony that “the deployment of these new units will enable the retirement of OTC and other vintage generation.” Additionally, and more importantly, CECP has made no commitment to retire the Encina units. CECP has indicated that they will operate Encina units 4 and 5 as long as they are profitable. Given the lack of need for this capacity, and the lack of a definite plan for the retirement and demolition of the Encina units, Staff believes that the CECP does not lead to the demolition of the EPS.

- (4) Local energy benefits. CECP claims that there will be local benefits, such as increased local reliability and less local pollution. Presumably, the increase of 350 MW of additional local capacity and the retirement of Encina 1-3.

NRG does not offer proof that there will be increased reliability, except for whatever benefits that may come from another power plant in the area. We believe this benefit is very minor. With regard to the decrease in pollution, there will be a reduction in emissions from the retirement of Encina 1-3, but CECP, being more efficient, would likely operate more hours per year and thus there may not be any benefit.

- (5) Electric grid benefits. NRG claims that the California electric grid will be more efficient and that the CECP will help integrate renewable resources into the grid.

Staff believes these are area-wide benefits and do not serve any purpose of the redevelopment plan. Additionally, Staff believes that these grid benefits will be provided by the three projects under review

by the CPUC. Staff believes SDG&E is in the best position to determine threats to grid reliability and to contract with electric generation projects that will make the grid more efficient and assist in the integration of renewable resources.

(6) Tax benefits. CECP will contribute to the local tax base.

Staff is of the opinion that an alternate redevelopment project may provide greater tax increment benefits to the redevelopment agency in the long run. Although the CECP represents a sizeable investment, tax increment revenues from the CECP are likely to be less than tax revenues from a redeveloped area west of the railroad tracks. Staff does not believe this item represents any local benefit.

(7) Decommissioning of oil tanks. CECP will decommission and demolish three oil tanks in order to construct the CECP. The CECP and attendant electric equipment will be constructed in the area freed-up by the removal of these tanks.

Staff does not believe there are any benefits to the removal of these unused oil tanks as the CECP will be constructed in the space vacated by the tanks. There is no redevelopment benefit in replacing one industrial facility with another.

Poseidon Desalination Extraordinary Public Purpose

Staff here presents a brief review of the benefits provided by the Poseidon desalination project. The Commission may want to use the Poseidon benefits as a baseline point of comparison with the CECP benefits. It is instructive that Poseidon will occupy four acres and will be housed in a class A building that is only 35 feet high. The CECP, on the other hand, will occupy 30+ acres, will have stacks 139 feet high and will be an exposed industrial facility. Poseidon offered the following benefits:

- (1) Secure supply of potable water, at an attractive guaranteed price. This benefit is local in nature and helps secure a long-term supply of water for the city of Carlsbad.
- (2) Dedication to the public of the Hubbs site for the expansion of the fish hatchery
- (3) Dedication to the public of the fishing beach on the Agua Hedionda lagoon
- (4) Dedication of the bluff area on the west side of Carlsbad Boulevard for recreational and coastal access purposes, and
- (5) Dedication of the parking lot on the south end of the Encina parcel.

#### Issue Presented to Redevelopment Agency

The CEC Assigned Committee, in its draft decision, stated that it found that there are benefits but it was not yet convinced that the benefits rise to the “extraordinary” level. The Energy Commission remanded the draft decision back to the CEC assigned committee to take evidence on a number of issues, including issues associated with Land-2 and Land-3. Despite this direction, NRG appears to have asked for a determination of conformance with Carlsbad’s redevelopment law without these conditions.

It is staff’s recommendation that the Redevelopment Commission clearly articulate that the inclusion of Land-2 and Land-3 is a minimum requirement for project approval and that the development of an additional power plant clearly contravenes the expressed purpose of the South Carlsbad Coastal Redevelopment Plan.

[illegible]

A RESOLUTION OF THE HOUSING AND REDEVELOPMENT COMMISSION OF THE CITY OF CARLSBAD, CALIFORNIA, TO CONSIDER PROPOSED CONDITIONS FOR A SECOND POWER PLANT PROPOSED BY NRG AND PROVIDE COMMENTS TO THE CALIFORNIA ENERGY COMMISSION AND THE ASSIGNED COMMITTEE

WHEREAS, the South Carlsbad Coastal Redevelopment Area was created in 2000 and amended in 2005 in order to consider and approve redevelopment projects which would eliminate blight in the project area; and

WHEREAS, but for the paramount jurisdiction of the California Energy Commission, the Housing and Redevelopment Commission would consider whether or not to issue a redevelopment permit, precise development plan and whether or not a redevelopment project served an extraordinary public purpose for projects that transmitted water and electrical energy; and

WHEREAS, the California Energy Commission remanded the siting application for a second power plant proposed by NRG to the assigned committee; and

WHEREAS, the Committee called for new evidentiary hearings and consideration of issues surrounded by proposed conditions Land-2 and Land-3; and

WHEREAS, the applicant, has requested relief from those conditions prior to proceeding further with this project; and

WHEREAS, those conditions are necessary but may not be sufficient to eliminate blight; and

WHEREAS, without those conditions the project clearly does not serve any extraordinary public purpose for such a redevelopment project; and

1 WHEREAS, the Commission carefully considered these conditions at its special  
2 meeting of Tuesday, September 20, 2011.

3 NOW, THEREFORE, BE IT RESOLVED by the Housing and Redevelopment  
4 Commission of the City of Carlsbad, California, as follows that:

5 1. The above recitations are true and correct.

6  
7 2. Two power plants are in direct conflict the goals and objectives of the  
8 South Carlsbad Coastal Redevelopment Plant.

9 3. That, but for the paramount jurisdiction of the California Energy  
10 Commission, without the conditions Land-2 and Land-3 the Housing and  
11 Redevelopment Commission would not issue a redevelopment permit for this proposed  
12 redevelopment project since it would not eliminate the blighting influence of a second  
13 power plant in the project area.

14  
15 4. That this resolution shall be submitted to the Committee and to the full  
16 Commission for its careful consideration.

17 //

18 //

19 //

20 //

21 //

22 //

23 //

24 //

25 //

26 //

27 //

28

1 PASSED, APPROVED AND ADOPTED at a Joint Special Meeting of the  
2 Housing and Redevelopment Commission and City Council of the City of Carlsbad on  
3 the 20<sup>th</sup> day of September 2011, by the following vote, to wit:  
4

5 AYES: Commission Members Hall, Kulchin, Blackburn, Douglas, Packard.

6 NOES: None.

7 ABSENT: None.  
8  
9

10   
11 MATT HALL, Chairman

12  
13 ATTEST:

14 :  
15   
16 LISA HILDABRAND, Secretary  
17 (SEAL)







**BEFORE THE ENERGY RESOURCES CONSERVATION AND DEVELOPMENT  
COMMISSION OF THE STATE OF CALIFORNIA  
1516 NINTH STREET, SACRAMENTO, CA 95814  
1-800-822-6228 – WWW.ENERGY.CA.GOV**

**APPLICATION FOR CERTIFICATION  
FOR THE CARLSBAD ENERGY  
CENTER PROJECT**

**Docket No. 07-AFC-6  
PROOF OF SERVICE  
(Revised 9/19/2011)**

**APPLICANT**

Jennifer Hein  
George Piantka, PE.  
NRG Energy, Inc., West Region  
5790 Fleet Street, Ste. 200  
Carlsbad, CA 92008  
[jennifer.hein@nrgenergy.com](mailto:jennifer.hein@nrgenergy.com)  
[george.piantka@nrgenergy.com](mailto:george.piantka@nrgenergy.com)

**APPLICANT'S CONSULTANTS**

Robert Mason, Project Manager  
CH2M Hill, Inc.  
6 Hutton Centre Drive, Ste. 700  
Santa Ana, CA 92707  
[Robert.Mason@ch2m.com](mailto:Robert.Mason@ch2m.com)

Megan Sebra  
CH2M Hill, Inc.  
2485 Natamas Park Drive, Ste. 600  
Sacramento, CA 95833  
[Megan.Sebra@ch2m.com](mailto:Megan.Sebra@ch2m.com)

**COUNSEL FOR APPLICANT**

John A. McKinsey  
Stoel Rives, LLP  
500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
[jamckinsey@stoel.com](mailto:jamckinsey@stoel.com)

**INTERESTED AGENCIES**

California ISO  
[e-mail service preferred](mailto:e-mail service preferred)  
[e-recipient@caiso.com](mailto:e-recipient@caiso.com)

Terramar Association  
Kerry Siekmann & Catherine Miller  
5239 El Arbol  
Carlsbad, CA 92008  
[e-mail service preferred](mailto:e-mail service preferred)  
[siekmann1@att.net](mailto:siekmann1@att.net)

**INTERVENORS**

City of Carlsbad  
South Carlsbad Coastal  
Redevelopment Agency  
Allan J. Thompson  
21 "C" Orinda Way #314  
Orinda, CA 94563  
[e-mail service preferred](mailto:e-mail service preferred)  
[allanori@comcast.net](mailto:allanori@comcast.net)

City of Carlsbad  
South Carlsbad Coastal  
Redevelopment Agency  
Joseph Garuba,  
Municipals Project Manager  
Ronald R. Ball, Esq., City Attorney  
1200 Carlsbad Village Drive  
Carlsbad, CA 92008  
[e-mail service preferred](mailto:e-mail service preferred)  
[Joe.Garuba@carlsbadca.gov](mailto:Joe.Garuba@carlsbadca.gov)  
[e-mail service preferred](mailto:e-mail service preferred)  
[ron.ball@carlsbadca.gov](mailto:ron.ball@carlsbadca.gov)

California Unions for Reliable Energy  
(CURE)  
Marc D. Joseph  
Adams Broadwell Joseph & Cardozo  
601 Gateway Boulevard, Suite 1000  
South San Francisco, CA 94080  
[gsmith@adamsbroadwell.com](mailto:gsmith@adamsbroadwell.com)  
[mdjoseph@adamsbroadwell.com](mailto:mdjoseph@adamsbroadwell.com)

Center for Biological Diversity  
c/o William B. Rostov  
EARTH JUSTICE  
426 17th Street, 5th Floor  
Oakland, CA 94612  
[e-mail service preferred](mailto:e-mail service preferred)  
[wrostov@earthjustice.org](mailto:wrostov@earthjustice.org)

Power of Vision  
Julie Baker & Arnold Roe, Ph.D.  
4213 Sunnyhill Drive  
Carlsbad, California 92013  
[e-mail service preferred](mailto:e-mail service preferred)  
[powerofvision@roadrunner.com](mailto:powerofvision@roadrunner.com)

Rob Simpson  
Environmental Consultant  
27126 Grandview Avenue  
Hayward, CA 94542  
[e-mail service preferred](mailto:e-mail service preferred)  
[rob@redwoodrob.com](mailto:rob@redwoodrob.com)

April Rose Sommer  
Attorney for Rob Simpson  
P.O. Box 6937  
Moraga, CA 94570  
[e-mail service preferred](mailto:e-mail service preferred)  
[aprilsummerlaw@yahoo.com](mailto:aprilsummerlaw@yahoo.com)

**ENERGY COMMISSION –  
DECISIONMAKERS**

JAMES D. BOYD  
Vice Chair and Presiding Member  
[jboyd@energy.state.ca.us](mailto:jboyd@energy.state.ca.us)

**\*KAREN DOUGLAS**  
Commissioner and Associate  
Member  
[kldougla@energy.state.ca.us](mailto:kldougla@energy.state.ca.us)

**\*Galen Lemei**  
Adviser to Commissioner  
Douglas  
[e-mail service preferred](mailto:e-mail service preferred)  
[glemei@energy.state.ca.us](mailto:glemei@energy.state.ca.us)

Tim Olson  
Adviser to Vice Chair Boyd  
[tolson@energy.state.ca.us](mailto:tolson@energy.state.ca.us)

Paul Kramer  
Hearing Officer  
[pkramer@energy.state.ca.us](mailto:pkramer@energy.state.ca.us)

**ENERGY COMMISSION STAFF**

Mike Monasmith  
Siting Project Manager  
[mmonasmi@energy.state.ca.us](mailto:mmonasmi@energy.state.ca.us)

Dick Ratliff  
Staff Counsel  
[dratliff@energy.state.ca.us](mailto:dratliff@energy.state.ca.us)

**ENERGY COMMISSION – PUBLIC  
ADVISER**

Jennifer Jennings  
Public Adviser's Office  
*e-mail service preferred*  
[publicadviser@energy.state.ca.us](mailto:publicadviser@energy.state.ca.us)

:

**DECLARATION OF SERVICE**

I, Robin Nuschy, declare that on, 9-23-11, I served and filed copies of the attached Comments From Carlsbad, dated 9-23-11. The original document, filed with the Docket Unit or the Chief Counsel, as required by the applicable regulation, is accompanied by a copy of the most recent Proof of Service list, located on the web page for this project at: [[www.energy.ca.gov/sitingcases/carlsbad/index.html](http://www.energy.ca.gov/sitingcases/carlsbad/index.html)].

The document has been sent to the other parties in this proceeding (as shown on the Proof of Service list) and to the Commission's Docket Unit or Chief Counsel, as appropriate, in the following manner:

**(Check all that Apply)**

**For service to all other parties:**

☒

Served electronically to all e-mail addresses on the Proof of Service list;

☐

Served by delivering on this date, either personally, or for mailing with the U.S. Postal Service with first-class postage thereon fully prepaid, to the name and address of the person served, for mailing that same day in the ordinary course of business; that the envelope was sealed and placed for collection and mailing on that date to those addresses **NOT** marked "e-mail service preferred."

**AND**

**For filing with the Docket Unit at the Energy Commission:**

☒

by sending an original paper copy and one electronic copy, mailed with the U.S. Postal Service with first class postage thereon fully prepaid and e-mailed respectively, to the address below (preferred method); **OR**

☐

by depositing an original and 12 paper copies in the mail with the U.S. Postal Service with first class postage thereon fully prepaid, as follows:

**CALIFORNIA ENERGY COMMISSION – DOCKET UNIT**

Attn: Docket No. 08-AFC-11  
1516 Ninth Street, MS-4  
Sacramento, CA 95814-5512  
[docket@energy.state.ca.us](mailto:docket@energy.state.ca.us)

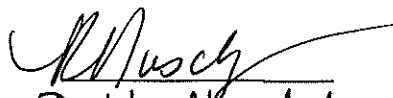
**OR, if filing a Petition for Reconsideration of Decision or Order pursuant to Title 20, § 1720:**

☒

Served by delivering on this date one electronic copy by e-mail, and an original paper copy to the Chief Counsel at the following address, either personally, or for mailing with the U.S. Postal Service with first class postage thereon fully prepaid:

California Energy Commission  
Michael J. Levy, Chief Counsel  
1516 Ninth Street MS-14  
Sacramento, CA 95814  
[mlevy@energy.state.ca.us](mailto:mlevy@energy.state.ca.us)

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct, that I am employed in the county where this mailing occurred, and that I am over the age of 18 years and not a party to the proceeding.

  
Robin Nuschy  
City of Carlsbad  
3

\*indicates change